

## 2011 DRAFTING REQUEST

### Bill

Received: **12/20/2011**

Received By: **pkahler**

Wanted: **As time permits**

Companion to LRB:

For: **John Nygren (608) 266-2343**

By/Representing: **Nels Rude**

May Contact:

Drafter: **pkahler**

Subject: **Public Assistance - med. assist.**

Addl. Drafters:

Extra Copies: **ARG**

Submit via email: **YES**

Requester's email: **Rep.Nygren@legis.wisconsin.gov**

Carbon copy (CC:) to: **Fern.Knepp@legis.wisconsin.gov**

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### Pre Topic:

No specific pre topic given

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### Topic:

Medical Assistance financial records matching program

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### Instructions:

See attached

---

### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/P1	pkahler 01/04/2012	jdyer 01/19/2012	phenry 01/19/2012	_____	lparisi 01/19/2012		State
/P2	pkahler 01/20/2012	jdyer 01/23/2012	rschluet 01/23/2012	_____	lparisi 01/23/2012		State
/1	pkahler 01/27/2012	jdyer 01/30/2012	rschluet 01/30/2012	_____	sbasford 01/30/2012	ggodwin 01/30/2012	

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

<END>

02-02-2012  
("1")

Requested  
by Nels

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/?		1/30 jld		_____			State
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May Contact:

Drafter: pkahler

Subject: Public Assistance - med. assist.

Addl. Drafters:

Extra Copies: ARG

Submit via email: YES

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Carbon copy (CC:) to: Fern.Knepp@legis.wisconsin.gov

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### Topic:

Medical Assistance financial records matching program

### Instructions:

See attached

### Drafting History:

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/?		P2/23 JLD					State
/P1	pkahler 01/04/2012	jdye 01/19/2012	pherry 01/19/2012		lparisi 01/19/2012		

FE Sent For:

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By/Representing: Nels Rude

May Contact:

Drafter: pkahler

Subject: Public Assistance - med. assist.

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Nygren@legis.wisconsin.gov

Carbon copy (CC:) to: Fern (added)

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/?	pkahler	PI 1/19 JLD	1/19 PH	PH/KM			

FE Sent For:

<END>

**Kahler, Pam**

---

**From:** Rude, Nels  
**Sent:** Friday, December 16, 2011 3:34 PM  
**To:** Kahler, Pam  
**Subject:** Medical Assistance Legislation  
**Attachments:** Asset Verif Draft Legislation.doc

Hello Pam,

Rep. Nygren is looking to draft legislation which would strengthen the state's process for verifying medical assistance eligibility. Attached is sample legislation.

Thanks,

Nels

**Nels Rude**

Office of Representative John Nygren  
89<sup>th</sup> Assembly District  
306 East, State Capitol  
608.266.2344  
[nels.rude@legis.wi.gov](mailto:nels.rude@legis.wi.gov)



Asset Verif Draft  
Legislation....

see A. 49.853  
42 USC 1396a(a)(7)  
42 CFR 431.300 et seq



Insert 1-5  
1984  
SECTION #. CR 49.45 (4m)

49.47(9) FINANCIAL RECORD MATCHING PROGRAM.

(a) Definitions. In this subsection:

DRAFT

1. "Account" means a demand deposit account, checking account, negotiable withdrawal order account, savings account, time deposit account, or money market mutual fund account.
2. "Applicant" means a person who has applied for benefits under subchapter IV of Chapter 49, Wis. Stats.
3. "Department" means the department of health services.
4. "Financial institution" has the meaning given in 12 USC 3401(1)
5. "Other individuals" means individuals whose resources are required by law to be disclosed to determine the eligibility of an applicant or recipient.
6. 5. "Person" means an individual, firm, partnership, limited liability company, joint venture, joint stock company, association, public or private corporation, estate, trust, receiver, personal representative, and other fiduciary.
7. 6. "Recipient" means a person who receives benefits under subchapter IV of Chapter 49, Wis. Stats.

(b) *Matching program and agreements.* The department shall operate a financial record matching program under this subsection for the purpose of verifying the assets of applicants, recipients, and other individuals. The financial matching program shall apply to any health care program under subchapter IV of Chapter 49, Wis. Stats. which requires asset verification. The department shall enter into agreements with financial institutions doing business in this state to operate the financial record matching program under this subsection. The agreement shall require the financial institution to participate in the financial record matching program by electing either the financial institution matching option under par. (c) or the state matching option under par. (d). The department will reimburse a financial institution up to \$125 per quarter for participating in the financial record matching program under this subsection. To the extent feasible, the information required under this agreement shall be provided by electronic data exchange as prescribed by the department in the agreement. Any changes to the conditions of the agreement shall be submitted by the financial institution or the department at least 60 days prior to the effective date of the change. The department will furnish the financial institution with a signed copy of the agreement.

(c) *Financial institution matching option.* The following apply if a financial institution with which the department has an agreement under par. (b) elects the financial institution matching option:

↓

1. The department shall provide a financial institution with information regarding applicants, recipients, and other individuals. The information shall be provided at least once each calendar quarter and shall include names and social security numbers. The information shall be provided to the financial institution in the manner specified by agreement.
2. Each financial institution receiving information under par. (c) shall take actions necessary to determine whether any applicant, recipient, or other individual has an ownership interest in an account maintained at the financial institution. If the financial institution determines that an applicant, recipient, or other individual has an ownership interest in an account at the financial institution, the financial institution shall provide the department with a notice containing the name, address of record, social security number or other taxpayer identification number, and account information. The information regarding the account shall include the account number, the account type, the nature of the ownership interest in the account and the balance of the account at the time that the record match is made. The notice under this paragraph shall be provided in the manner specified by agreement. To the extent feasible, the notice required under this paragraph shall be provided to the department by an electronic data exchange.
3. The financial institution participating in the financial institution matching option under this subsection, and the employees, agents, officers and directors of the financial institution, may use the information provided by the department under subd. 1. only for the purpose of matching records under subd. 2. Neither the financial institution nor any employee, agent, officer or director of the financial institution may disclose or retain information provided under subd. 1., concerning applicants, recipients, or other individuals who do not have an interest in an account maintained at the financial institution. Any person who violates this paragraph may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail for not less than 10 days nor more than one year or both.
4. The department or department's agent shall not disclose or retain information received from the financial institution concerning account holders who are not applicants, recipients, or other individuals.

**(d) State matching option.** The following apply if a financial institution with which the department has an agreement under par. (b) elects the state matching option:

1. The financial institution shall provide the department with information concerning all accounts maintained at the financial institution at least once each calendar quarter. For each account maintained at the financial institution, the financial institution shall notify the department of the name and social security number or other tax identification number of each person having an ownership interest in the account together with a description of each person's interest. The information required under this paragraph shall be provided in the manner specified by agreement. To the extent feasible, the notice required under this paragraph shall be provided to the department by an electronic data exchange.

2. The department shall take actions necessary to determine whether any applicant, recipient, or other individual has an ownership interest in an account maintained at a financial institution providing information under par. (d). Upon the request of the department, the financial institution shall provide the department, for each applicant, recipient, or other individual who matches information provided by the financial institution under par. (d), the address of record, the account number and account type and the balance of the account.

3. The department may use the information provided by a financial institution under subds. 1. and 2. only for the purpose of matching records under subd. 1. The department shall not disclose or retain information received under subds. 1. and 2., concerning account holders who are not applicants, recipients, or other individuals.

4. A financial institution participating in the state matching option under this subsection, and the employees, agents, officers and directors of the financial institution, may use any information that is provided by the department in requesting additional information under subd. 1, only for the purpose of administering this subsection or for the purpose of providing the additional information. Any person who violates this paragraph may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail for not less than 10 days nor more than one year or both.

**(e) Financial institution liability.** A financial institution is not liable to any person for disclosing information to the department under this subsection or

4804

for any other action that the financial institution takes in good faith to comply with this subsection.

**Kahler, Pam**

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**From:** Gary, Aaron  
**Sent:** Tuesday, January 03, 2012 6:39 PM  
**To:** Kahler, Pam  
**Subject:** RE: Financial institution

Hi Pam,

This definition is quite broad but I suppose it will work.

I did some quick research and, surprisingly, it does not appear that federal law would bar this type of state law. (I reviewed both the Right to Financial Privacy Act (RFPA) of 1978, 12 USC 3401-3422, and the "Disclosure of Nonpublic Personal Information" provisions of the Gramm-Leach-Bliley Act of 1999 (GLBA), 15 USC 6801-6809). The GLBA provides an exception for state laws and the RFPA applies only to federal government requests, leaving it up to states to enact similar laws at the state level. Apparently Wisconsin never has. In my quick review, I found no state law that would directly prohibit the disclosure.

As I understand the request, it is patterned after the child support enforcement provision. I assume I will have to add a section in ch. 224 that is similar to s. 224.40 (which I assume is part of the model for the draft). Let me know what you need me to do on this one. Thanks.

Aaron

Aaron R. Gary  
Attorney, Legislative Reference Bureau  
608.261.6926 (voice)  
608.264.6948 (fax)  
aaron.gary@legis.state.wi.us

---

**From:** Kahler, Pam  
**Sent:** Tuesday, January 03, 2012 5:31 PM  
**To:** Gary, Aaron  
**Subject:** Financial institution

The definition they are using is the one in 12 USC 3401 (1).

*Pamela J. Kahler*  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608-266-2682

**Kahler, Pam**

---

**From:** Malofsky, Shelley F - DHS [Shelley.Malofsky@dhs.wisconsin.gov]  
**Sent:** Wednesday, January 04, 2012 8:52 AM  
**To:** Kahler, Pam  
**Subject:** RE: MA question

Good morning, Pam – This project took a long journey before it got to you and I have been involved. The last I knew the drafting instructions had been agreed to by representatives of the financial institutions, resulting from meetings and discussions with them.

The language is intended to specifically authorize the asset verification program that is a Medicaid state plan requirement under 42 USC 1396a(a)(71). That cross-references to 1396w which details the authorized access to FI data. The draft presented you (or so I assume) tracks the federal requirements.

Let me know if you have other questions.

Shelley

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**From:** Kahler, Pam [mailto:Pam.Kahler@legis.wisconsin.gov]  
**Sent:** Tuesday, January 03, 2012 4:00 PM  
**To:** Malofsky, Shelley F - DHS  
**Subject:** MA question

Hi, Shelley:

I have a question for you related to a bill I've been asked to draft (and permission to ask the question). The requester wants to set up a financial records matching program for MA applicants and recipients, similar to the program for child support payers in s. 49.853. DHS would send personal information of MA applicants and recipients (including names, addresses, and social security numbers) to financial institutions, which would compare their records with that information, flag accounts that belonged to those applicants and recipients, and notify DHS for the purpose of verifying eligibility. I know that under federal law confidential information about MA applicants and recipients can be exchanged for purposes of administering MA if confidentiality safeguards are in place. I'm just not sure if that applies to any and all recipients of the information - such as private financial institutions. What do you think? Thanks for your help!

Pam

*Pamela J. Kahler*  
*Legislative Attorney*  
*Legislative Reference Bureau*  
608-266-2682



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3665/P1

PJK:.....

JLd

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-vote  
(in 1-4)  
SOPH  
by 1-20, please

✓ and providing a penalty

Gen

1 AN ACT to create 49.45 (4m) of the statutes; relating to: matching financial  
2 records for Medical Assistance eligibility.

*Analysis by the Legislative Reference Bureau*

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3 SECTION 1. 49.45 (4m) of the statutes is created to read:

4 49.45 (4m) FINANCIAL RECORDS MATCHING PROGRAM. (a) Definitions. In this  
5 subsection:

6 1. "Account" means a demand deposit account, checking account, negotiable  
7 withdrawal order account, savings account, time deposit account, or money market  
8 mutual fund account.

9 2. "Applicant" means a person who has applied for benefits under subchapter

10 IV of Chapter 49, Wis. Stats.

1 3. "Department" means the department of health services.

2 4 3 4. "Financial institution" has the meaning given in 12 USC 3401(1).

3 4 4 5. "Other individuals" means individuals whose resources are required by law  
4 to be disclosed to determine the eligibility of an applicant or recipient.

5 5 5. "Person" means an individual, firm, partnership, limited liability company,  
6 joint venture, joint stock company, association, public or private corporation, estate,  
7 trust, receiver, personal representative, and other fiduciary.

8 4 5 7. "Recipient" means a person who receives benefits under subchapter IV of  
9 Chapter 49, Wis. Stats. *an individual*

10 (b) Matching program and agreements. The department shall operate a  
11 financial record matching program under this subsection for the purpose of verifying  
12 the assets of applicants, recipients, and other individuals. The financial matching

13 program shall apply to any health care program under subchapter IV of Chapter 49,  
14 Wis. Stats. which requires asset verification. *this* *that* *Ch 2.* *an*

15 agreements with financial institutions doing business in this state to operate the  
16 financial record matching program under this subsection. The agreement shall  
17 require the financial institution to participate in the financial record matching

18 program by electing either the financial institution matching option under par. (c)

19 or the state matching option under par. (d). The department will reimburse a  
20 financial institution up to \$125 per calendar quarter for participating in the financial record

21 matching program under this subsection. To the extent feasible, the information  
22 required under this agreement shall be provided by electronic data exchange as

23 prescribed by the department in the agreement. Any changes to the conditions of the  
24 agreement shall be submitted by the financial institution or the department at least

with respect to any

under sub 8.2

Contd

Insert 2-19



Insert 2-19 could

before

shall

1 60 days <sup>before</sup> prior to the effective date of the change. The department <sup>shall</sup> will furnish the  
 2 financial institution with a signed copy of the agreement.

(and of ins 2-19)

3 (c) *Financial institution matching option.* The following apply if a financial  
 4 institution with which the department has an agreement under par. (b) elects the  
 5 financial institution matching option: <sup>under this paragraph, all of the following apply</sup>

6 1. The department shall provide a financial institution with information  
 7 regarding applicants, recipients, and other individuals. The information shall be  
 8 provided at least once each calendar quarter and shall include names and social  
 9 security numbers. The information shall be provided to the financial institution in  
 10 the manner specified by agreement.

Insert 3-10

11 2. Each financial institution receiving information under par. (c) shall take  
 12 actions necessary to determine whether any applicant, recipient, or other individual  
 13 has an ownership interest in an account maintained at the financial institution. If  
 14 the financial institution determines that an applicant, recipient, or other individual  
 15 has an ownership interest in an account at the financial institution, the financial  
 16 institution shall provide the department with a notice containing the name, address  
 17 of record, social security number or other taxpayer identification number, and  
 18 account information. The <sup>move</sup> information regarding the account shall include the  
 19 account number, the account type, the nature of the ownership interest in the  
 20 account and the balance of the account at the time that the record match is made.

Insert 3-11

21 The notice under this <sup>subdivision</sup> paragraph shall be provided in the manner specified by  
 22 in the agreement. To the extent feasible, the notice required under this paragraph shall be  
 23 provided to the department by an electronic data exchange.

applicants, recipients, or other individuals

24 3. The financial institution participating in the financial institution matching  
 25 option under this subsection, and the employees, agents, officers and directors of the

under par. (b) 2. and,

financial institution, may use the information provided by the department under subd. 1. only for the purpose of matching records under subd. 2. Neither the financial institution nor any employee, agent, officer or director of the financial institution may disclose or retain information provided under subd. 1., concerning applicants, recipients, or other individuals who do not have an interest in an account maintained at the financial institution. Any person who violates this paragraph may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail for not less than 10 days nor more than one year or both.

4. The department or department's agent shall not disclose or retain information received from the financial institution concerning account holders who are not applicants, recipients, or other individuals.

(d) *State matching option.* The following apply if a financial institution with which the department has an agreement under par. (b) elects the state matching option: *under this paragraph, all of the following apply*

1. The financial institution shall provide the department with information concerning all accounts maintained at the financial institution at least once each

calendar quarter. For each account maintained at the financial institution, the financial institution shall notify the department of the name and social security number or other tax identification number of each person having an ownership interest in the account *together* with a description of each person's interest. The information required under this paragraph shall be provided in the manner specified

*in the* by agreement. *subdivision* To the extent feasible, the notice required under this paragraph shall be provided to the department by an electronic data exchange.

2. The department shall take actions necessary to determine whether any applicant, recipient, or other individual has an ownership interest in an account

*under par. (b) 2. and,*

*At least once each calendar quarter,*

maintained at a financial institution providing information under par. (d). Upon the request of the department, the financial institution shall provide the department, for each applicant, recipient, or other individual who matches information provided by the financial institution under <sup>subd. 1.</sup> par. (d), the address of record, the account number and account type and the balance of the account. ✓

3. The department may use the information provided by a financial institution under subds. 1. and 2. only for the purpose of matching records under subd. 1. The department shall not disclose or retain information received under subds. 1. and 2., concerning account holders who are not applicants, recipients, or other individuals.

4. A financial institution participating in the state matching option under this subsection, and the employees, agents, officers and directors of the financial institution, may use any information that is provided by the department in requesting additional information under subd. 1, only for the purpose of administering this subsection or for the purpose of providing the additional information. Any person who violates this paragraph may be fined not less than \$25 nor more than \$500 or imprisoned in the county jail for not less than 10 days nor more than one year or both.

4 g (b) *Financial institution liability.* A financial institution is not liable to any person for disclosing information to the department under this subsection or for any other action that the financial institution takes in good faith to comply with this subsection.

(END)

D-note

**2011-2012 DRAFTING INSERT**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3665/P1ins  
PJK:.....

**INSERT A**

(program)

Under current law, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, under which DHS, among other things, provides health care benefits to low-income families and individuals. Federal law requires each state to implement an asset verification program for purposes of determining eligibility for MA. This bill requires DHS to operate a financial record matching program (program) for MA applicants and recipients for whom asset verification is required for eligibility for MA. Under the program, DHS must enter into agreements with financial institutions in this state to participate in a financial institution matching option or a state matching option and must pay such a financial institution up to \$125 per calendar quarter for participating.

Under the financial institution matching option, at least once every calendar quarter DHS sends information to the financial institution, including names, addresses, and social security numbers, about MA applicants, recipients, and other individuals whose resources are required by law to be disclosed to determine the eligibility of an MA applicant or recipient. The financial institution determines whether any MA applicant, recipient, or other individual has an ownership interest in an account at the financial institution and, if so, sends DHS information about the account, such as the type, number, and balance.

Under the state matching option, at least once every calendar quarter the financial institution sends DHS information about accounts maintained at the financial institution, including the name and social security number of each person having an ownership interest in each account. On the basis of that information, DHS determines whether any MA applicant, recipient, or other individual has an ownership interest in an account at the financial institution and, if so, may request further information from the financial institution, including the person's address of record and the account balance.

The bill prohibits DHS from disclosing or retaining information concerning account holders who are not MA applicants, recipients, or other individuals; prohibits employees, agents, officers, and directors of financial institutions from disclosing or retaining information concerning MA applicants, recipients, or other individuals who are not account holders; and prohibits both DHS and financial institutions from using any information received under the program for any purpose not related to the program or administering MA. The bill provides penalties for any employee, agent, officer, or director of a financial institution who violates any of the prohibitions.

The Department of Children and Families operates a similar financial record matching program with financial institutions for individuals who are obligated to pay court-ordered child support.

↓

*Ins A conto*

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

(END OF INSERT A)

INSERT 3-10

1 *4* 1. At least once each calendar quarter, the department shall provide to the  
2 financial institution, in the manner specified in the agreement under par. (b) 2.,  
3 information regarding applicants, recipients, and other individuals. The  
4 information shall include names and social security or other taxpayer identification  
5 numbers.

(END OF INSERT 3-10)

INSERT 3-11

6 *no 4* (2) Based on the information received under subd. 1., the *NO 4*

(END OF INSERT 3-11)

INSERT 5-17

7 *4* (e) *Use of information by financial institution; penalty.* A financial institution  
8 participating in the financial record matching program under this subsection, and  
9 the employees, agents, officers, and directors of the financial institution, may use  
10 information received from the department under par. (c) only for the purpose of  
11 matching records and may use information provided by the department in  
12 requesting additional information under par. (d) only for the purpose of providing the  
13 additional information. Neither the financial institution nor any employee, agent,  
14 officer, or director of the financial institution may disclose or retain information  
15 received from the department concerning applicants, recipients, or other individuals  
16 who do not have an interest in an account maintained at the financial institution.

↓

*Ins 5-17 contd*

1 Any person who violates this paragraph<sup>✓</sup> may be fined not less than \$25<sup>✓</sup> nor more than  
2 \$500<sup>✓</sup> or imprisoned in the county jail for not less than 10<sup>✓</sup> days or more than one year  
3 or both.

\* \*\*\*\*NOTE: Is this provision, which applies to both the subprograms under<sup>✓</sup> pars. (c)  
and (d), acceptable?

4 *Ch* (f) *Use of information by department.*<sup>✓</sup> The department may use information  
5 provided by a financial institution under this subsection<sup>✓</sup> only for matching records  
6 under par. (d),<sup>✓</sup> for administering the financial record matching program under this  
7 subsection,<sup>✓</sup> and for determining eligibility or continued eligibility under this  
8 subchapter. The department may not disclose or retain information received from  
9 a financial institution under this subsection<sup>✓</sup> concerning account holders who are not  
10 applicants, recipients, or other individuals.<sup>✓</sup>

\* \*\*\*\*NOTE: Is this provision, which applies to both the subprograms under<sup>✓</sup> pars. (c)  
and (d), acceptable? Also, please carefully review the language I added to the first  
sentence.

(END OF INSERT 5-17)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3665/P1dn

PJK: ^:...

date

jld

It isn't clear to me whether participation in the financial record matching program is optional or required on the part of a financial institution. This should be made explicit. If participation is required, a section similar to s. 240.40 should be added to the draft. \*

e 224.40

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: pam.kahler@legis.wisconsin.gov

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3665/P1dn  
PJK:jld:ph

January 19, 2012

It isn't clear to me whether participation in the financial record matching program is optional or required on the part of a financial institution. This should be made explicit. If participation is required, a section similar to s. 224.40 should be added to the draft.

Pamela J. Kahler  
Senior Legislative Attorney  
Phone: (608) 266-2682  
E-mail: [pam.kahler@legis.wisconsin.gov](mailto:pam.kahler@legis.wisconsin.gov)



## Kahler, Pam

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**From:** Rude, Nels  
**Sent:** Thursday, January 19, 2012 4:43 PM  
**To:** Kahler, Pam  
**Subject:** RE: Medical Assistance Legislation

Thanks for getting the draft to us. In response to your note, participation in the matching program is intended to be required, so please add a section similar to s. 224.40 to the draft.

Nels

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**From:** Kahler, Pam  
**Sent:** Tuesday, January 03, 2012 3:23 PM  
**To:** Rude, Nels  
**Subject:** RE: Medical Assistance Legislation

Nels,

I have some concerns about the legality under federal law of sharing confidential information about MA applicants and recipients with financial institutions. Is it ok if I contact someone at DHS or the fiscal bureau about their thoughts/knowledge on the subject?

Pam

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**From:** Rude, Nels  
**Sent:** Monday, December 19, 2011 10:09 AM  
**To:** Kahler, Pam  
**Subject:** RE: Medical Assistance Legislation

O.k., Thanks.

Nels

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**From:** Kahler, Pam  
**Sent:** Monday, December 19, 2011 10:00 AM  
**To:** Rude, Nels  
**Cc:** Dodge, Tamara  
**Subject:** RE: Medical Assistance Legislation

I'm not sure, yet, whether Tami Dodge or I will be drafting it - we have to discuss today. I have another draft that I'm working on right now, and then I will be out of the office all of next week, so if I draft it, it will not go to editing before mid-January, and then, unless a specific date is requested, it could be in editing for a few weeks. I don't know what Tami's schedule looks like.

Pam

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**From:** Rude, Nels  
**Sent:** Monday, December 19, 2011 9:33 AM  
**To:** Kahler, Pam  
**Subject:** FW: Medical Assistance Legislation

Good Morning Pam,

I realize I just sent this to you last Friday, but do you have any idea when you might be able to have a draft ready?

Thanks much,

Nels

**Nels Rude**

Office of Representative John Nygren  
89<sup>th</sup> Assembly District  
306 East, State Capitol  
608.266.2344  
[nels.rude@legis.wi.gov](mailto:nels.rude@legis.wi.gov)

---

**From:** Rude, Nels

**Sent:** Friday, December 16, 2011 3:34 PM

**To:** Kahler, Pam

**Subject:** Medical Assistance Legislation

Hello Pam,

Rep. Nygren is looking to draft legislation which would strengthen the state's process for verifying medical assistance eligibility. Attached is sample legislation.

Thanks,

Nels

**Nels Rude**

Office of Representative John Nygren  
89<sup>th</sup> Assembly District  
306 East, State Capitol  
608.266.2344  
[nels.rude@legis.wi.gov](mailto:nels.rude@legis.wi.gov)

<< File: Asset Verif Draft Legislation.doc >>



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3665/2

PJK:jld:pa

r m is run

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON  
(in 1-20)

X

regenerate ↓

- 1 AN ACT *to create* 49.45 (4m) of the statutes; **relating to:** matching financial  
2 records for Medical Assistance eligibility and providing a penalty.

*Analysis by the Legislative Reference Bureau*

Under current law, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, under which DHS, among other things, provides health care benefits to low-income families and individuals. Federal law requires each state to implement an asset verification program for purposes of determining eligibility for MA. This bill requires DHS to operate a financial record matching program (program) for MA applicants and recipients for whom asset verification is required for eligibility for MA. Under the program, DHS must enter into agreements with financial institutions in this state to participate in a financial institution matching option or a state matching option and must pay such a financial institution up to \$125 per calendar quarter for participating.

Under the financial institution matching option, at least once every calendar quarter DHS sends information to the financial institution, including names, addresses, and social security numbers, about MA applicants, recipients, and other individuals whose resources are required by law to be disclosed to determine the eligibility of an MA applicant or recipient. The financial institution determines whether any MA applicant, recipient, or other individual has an ownership interest in an account at the financial institution and, if so, sends DHS information about the account, such as the type, number, and balance.

Under the state matching option, at least once every calendar quarter the financial institution sends DHS information about accounts maintained at the

DHS ←

→ DHS

financial institution, including the name and social security number of each person having an ownership interest in each account. On the basis of that information, DHS determines whether any MA applicant, recipient, or other individual has an ownership interest in an account at the financial institution and, if so, may request further information from the financial institution, including the person's address of record and the account balance.

The bill prohibits DHS from disclosing or retaining information concerning account holders who are not MA applicants, recipients, or other individuals; prohibits employees, agents, officers, and directors of financial institutions from disclosing or retaining information concerning MA applicants, recipients, or other individuals who are not account holders; and prohibits both DHS and financial institutions from using any information received under the program for any purpose not related to the program or administering MA. The bill provides penalties for any employee, agent, officer, or director of a financial institution who violates any of the prohibitions. *Insert A-1 (see p. 6) ✓*

The Department of Children and Families operates a similar financial record matching program with financial institutions for individuals who are obligated to pay court-ordered child support.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 49.45 (4m) of the statutes is created to read:

2           49.45 (4m) FINANCIAL RECORD MATCHING PROGRAM. (a) *Definitions.* In this  
3 subsection:

4           1. "Account" means a demand deposit account, checking account, negotiable  
5 withdrawal order account, savings account, time deposit account, or money market  
6 mutual fund account.

7           2. "Applicant" means an individual applying for benefits under this subchapter.

8           3. "Financial institution" has the meaning given in 12 USC 3401 (1).

9           4. "Other individual" means an individual whose resources are required by law  
10 to be disclosed to determine the eligibility of an applicant or recipient.

1       5. "Recipient" means an individual who receives benefits under this  
2 subchapter.

3       (b) *Matching program and agreements.* 1. The department shall operate a  
4 financial record matching program under this subsection for the purpose of verifying  
5 the assets of applicants, recipients, and other individuals with respect to any  
6 program under this subchapter that requires asset verification.

7       2. The department shall enter into agreements with financial institutions  
8 doing business in this state to operate the financial record matching program under  
9 this subsection. An agreement shall require the financial institution to participate  
10 in the financial record matching program by electing either the financial institution  
11 matching option under par. (c) or the state matching option under par. (d). Any  
12 changes to the conditions of the agreement shall be submitted by the financial  
13 institution or the department at least 60 days before the effective date of the change.  
14 The department shall furnish the financial institution with a signed copy of the  
15 agreement.

16       3. The department shall reimburse a financial institution up to \$125 per  
17 calendar quarter for participating in the financial record matching program under  
18 this subsection.

19       4. To the extent feasible, the information to be exchanged under the matching  
20 program shall be provided by electronic data exchange as prescribed by the  
21 department in the agreement under subd. 2.

22       (c) *Financial institution matching option.* If a financial institution with which  
23 the department has an agreement under par. (b) elects the financial institution  
24 matching option under this paragraph, all of the following apply:

1           1. At least once each calendar quarter, the department shall provide to the  
2 financial institution, in the manner specified in the agreement under par. (b) 2.,  
3 information regarding applicants, recipients, and other individuals. The  
4 information shall include names and social security or other taxpayer identification  
5 numbers.

6           2. Based on the information received under subd. 1., the financial institution  
7 shall take actions necessary to determine whether any applicant, recipient, or other  
8 individual has an ownership interest in an account maintained at the financial  
9 institution. If the financial institution determines that an applicant, recipient, or  
10 other individual has an ownership interest in an account at the financial institution,  
11 the financial institution shall provide the department with a notice containing the  
12 applicant's, recipient's, or other individual's name, address of record, social security  
13 number or other taxpayer identification number, and account information. The  
14 account information shall include the account number, the account type, the nature  
15 of the ownership interest in the account, and the balance of the account at the time  
16 that the record match is made. The notice under this subdivision shall be provided  
17 in the manner specified in the agreement under par. (b) 2. and, to the extent feasible,  
18 by an electronic data exchange.

19           (d) *State matching option.* If a financial institution with which the department  
20 has an agreement under par. (b) elects the state matching option under this  
21 paragraph, all of the following apply:

22           1. At least once each calendar quarter, the financial institution shall provide  
23 the department with information concerning all accounts maintained at the  
24 financial institution. For each account maintained at the financial institution, the  
25 financial institution shall notify the department of the name and social security

1 number or other tax identification number of each person having an ownership  
2 interest in the account, together with a description of each person's interest. The  
3 information required under this subdivision shall be provided in the manner  
4 specified in the agreement under par. (b) 2. and, to the extent feasible, by an  
5 electronic data exchange.

6 2. The department shall take actions necessary to determine whether any  
7 applicant, recipient, or other individual has an ownership interest in an account  
8 maintained at the financial institution providing information under subd. 1. Upon  
9 the request of the department, the financial institution shall provide to the  
10 department, for each applicant, recipient, or other individual who matches  
11 information provided by the financial institution under subd. 1., the address of  
12 record, the account number and account type, and the balance of the account.

13 (e) *Use of information by financial institution; penalty.* A financial institution  
14 participating in the financial record matching program under this subsection, and  
15 the employees, agents, officers, and directors of the financial institution, may use  
16 information received from the department under par. (c) only for the purpose of  
17 matching records and may use information provided by the department in  
18 requesting additional information under par. (d) only for the purpose of providing the  
19 additional information. Neither the financial institution nor any employee, agent,  
20 officer, or director of the financial institution may disclose or retain information  
21 received from the department concerning applicants, recipients, or other individuals  
22 who do not have an interest in an account maintained at the financial institution.  
23 Any person who violates this paragraph may be fined not less than \$25 nor more than  
24 \$500 or imprisoned in the county jail for not less than 10 days or more than one year  
25 or both.

\*\*\*\*NOTE: Is this provision, which applies to both the subprograms under pars. (c) and (d), acceptable?

1 (f) *Use of information by department.* The department may use information  
2 provided by a financial institution under this subsection only for matching records  
3 under par. (d), for administering the financial record matching program under this  
4 subsection, and for determining eligibility or continued eligibility under this  
5 subchapter. The department may not disclose or retain information received from  
6 a financial institution under this subsection concerning account holders who are not  
7 applicants, recipients, or other individuals.

\*\*\*\*NOTE: Is this provision, which applies to both the subprograms under pars. (c) and (d), acceptable? Also, please carefully review the language I added to the first sentence.

8 (g) *Financial institution liability.* A financial institution is not liable to any  
9 person for disclosing information to the department under this subsection or for any  
10 other action that the financial institution takes in good faith to comply with this  
11 subsection.

12 (END)

Insert 6-11

Insert A-1

w/41 The bill also provides that a financial institution is not liable for disclosing financial information, or taking other action, in compliance with the program.

(end of ins A-1)



2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRB-3665/P2ins  
PJK:jld:ph

INSERT 6-11

SECTION 1. 224.42<sup>x</sup> of the statutes is created to read:

224.40<sup>x</sup> <sup>(2) ← (3)</sup> Disclosure of financial records for Medical Assistance

eligibility. (1) DEFINITIONS. In this section:

(a) "Financial institution" has the meaning given in 12 USC 3401 (1).

(b) "Financial record" has the meaning given in 12 USC 3401. <sup>(2)</sup>

(2) FINANCIAL RECORD MATCHING AGREEMENTS. A financial institution is required to enter into an agreement with the department of health services under s. 49.45 (4m).

(3) LIMITED LIABILITY. A financial institution is not liable for any of the following:

(a) Disclosing a financial record of an individual or other information to the department of health services in accordance with an agreement, and its participation in the program, under s. 49.45 (4m).<sup>✓</sup>

(b) Any other action taken in good faith to comply with s. 49.45 (4m).<sup>✓</sup>

(END OF INSERT 6-11)

**Kahler, Pam**

---

**From:** Rude, Nels  
**Sent:** Friday, January 27, 2012 2:18 PM  
**To:** Kahler, Pam  
**Subject:** Asset Verification

Pam- Could you please make the following changes to LRB3665:

Strike all of line 22 on page 5 so that sentence ends with "...department concerning applicants, recipients, or other individuals."

Also, can you change the minimum and maximum fines to \$50 and \$1,000.

Thanks much,

Nels

**Nels Rude**

Office of Representative John Nygren  
89<sup>th</sup> Assembly District  
306 East, State Capitol  
608.266.2344  
[nels.rude@legis.wi.gov](mailto:nels.rude@legis.wi.gov)



State of Wisconsin  
2011 - 2012 LEGISLATURE



LRB-3665/1

PJK:jld:rs

2011 BILL

r m is run

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

SOON  
(w 1-27)

X

Regen

- 1 AN ACT *to create* 49.45 (4m) and 224.42 of the statutes; **relating to:** matching  
2 financial records for Medical Assistance eligibility and providing a penalty.

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***Analysis by the Legislative Reference Bureau***

Under current law, the Department of Health Services (DHS) administers the Medical Assistance (MA) program, under which DHS, among other things, provides health care benefits to low-income families and individuals. Federal law requires each state to implement an asset verification program for purposes of determining eligibility for MA. This bill requires DHS to operate a financial record matching program (program) for MA applicants and recipients for whom asset verification is required for eligibility for MA. Under the program, financial institutions in this state must enter into agreements with DHS to participate in a financial institution matching option or a state matching option. DHS must pay such a financial institution up to \$125 per calendar quarter for participating.

Under the financial institution matching option, at least once every calendar quarter DHS sends information to the financial institution, including names, addresses, and social security numbers, about MA applicants, recipients, and other individuals whose resources are required by law to be disclosed to determine the eligibility of an MA applicant or recipient. The financial institution determines whether any MA applicant, recipient, or other individual has an ownership interest in an account at the financial institution and, if so, sends DHS information about the account, such as the type, number, and balance.

Under the state matching option, at least once every calendar quarter the financial institution sends DHS information about accounts maintained at the

financial institution, including the name and social security number of each person having an ownership interest in each account. On the basis of that information, DHS determines whether any MA applicant, recipient, or other individual has an ownership interest in an account at the financial institution and, if so, may request further information from the financial institution, including the person's address of record and the account balance.

The bill prohibits DHS from disclosing or retaining information concerning account holders who are not MA applicants, recipients, or other individuals; prohibits employees, agents, officers, and directors of financial institutions from disclosing or retaining information concerning MA applicants, recipients, or other individuals who are not account holders; and prohibits both DHS and financial institutions from using any information received under the program for any purpose not related to the program or administering MA. The bill provides penalties for any employee, agent, officer, or director of a financial institution who violates any of the prohibitions. The bill also provides that a financial institution is not liable for disclosing financial information, or taking other action, in compliance with the program.

The Department of Children and Families operates a similar financial record matching program with financial institutions for individuals who are obligated to pay court-ordered child support.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

---

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 49.45 (4m) of the statutes is created to read:

2           49.45 (4m) FINANCIAL RECORD MATCHING PROGRAM. (a) *Definitions.* In this  
3 subsection:

4           1. "Account" means a demand deposit account, checking account, negotiable  
5 withdrawal order account, savings account, time deposit account, or money market  
6 mutual fund account.

7           2. "Applicant" means an individual applying for benefits under this subchapter.

8           3. "Financial institution" has the meaning given in 12 USC 3401 (1).

9           4. "Other individual" means an individual whose resources are required by law  
10 to be disclosed to determine the eligibility of an applicant or recipient.

1           5. "Recipient" means an individual who receives benefits under this  
2 subchapter.

3           (b) *Matching program and agreements.* 1. The department shall operate a  
4 financial record matching program under this subsection for the purpose of verifying  
5 the assets of applicants, recipients, and other individuals with respect to any  
6 program under this subchapter that requires asset verification.

7           2. The department shall enter into agreements with financial institutions  
8 doing business in this state to operate the financial record matching program under  
9 this subsection. An agreement shall require the financial institution to participate  
10 in the financial record matching program by electing either the financial institution  
11 matching option under par. (c) or the state matching option under par. (d). Any  
12 changes to the conditions of the agreement shall be submitted by the financial  
13 institution or the department at least 60 days before the effective date of the change.  
14 The department shall furnish the financial institution with a signed copy of the  
15 agreement.

16           3. The department shall reimburse a financial institution up to \$125 per  
17 calendar quarter for participating in the financial record matching program under  
18 this subsection.

19           4. To the extent feasible, the information to be exchanged under the matching  
20 program shall be provided by electronic data exchange as prescribed by the  
21 department in the agreement under subd. 2.

22           (c) *Financial institution matching option.* If a financial institution with which  
23 the department has an agreement under par. (b) elects the financial institution  
24 matching option under this paragraph, all of the following apply:

1           1. At least once each calendar quarter, the department shall provide to the  
2 financial institution, in the manner specified in the agreement under par. (b) 2.,  
3 information regarding applicants, recipients, and other individuals. The  
4 information shall include names and social security or other taxpayer identification  
5 numbers.

6           2. Based on the information received under subd. 1., the financial institution  
7 shall take actions necessary to determine whether any applicant, recipient, or other  
8 individual has an ownership interest in an account maintained at the financial  
9 institution. If the financial institution determines that an applicant, recipient, or  
10 other individual has an ownership interest in an account at the financial institution,  
11 the financial institution shall provide the department with a notice containing the  
12 applicant's, recipient's, or other individual's name, address of record, social security  
13 number or other taxpayer identification number, and account information. The  
14 account information shall include the account number, the account type, the nature  
15 of the ownership interest in the account, and the balance of the account at the time  
16 that the record match is made. The notice under this subdivision shall be provided  
17 in the manner specified in the agreement under par. (b) 2. and, to the extent feasible,  
18 by an electronic data exchange.

19           (d) *State matching option.* If a financial institution with which the department  
20 has an agreement under par. (b) elects the state matching option under this  
21 paragraph, all of the following apply:

22           1. At least once each calendar quarter, the financial institution shall provide  
23 the department with information concerning all accounts maintained at the  
24 financial institution. For each account maintained at the financial institution, the  
25 financial institution shall notify the department of the name and social security

number or other tax identification number of each person having an ownership interest in the account, together with a description of each person's interest. The information required under this subdivision shall be provided in the manner specified in the agreement under par. (b) 2. and, to the extent feasible, by an electronic data exchange.

2. The department shall take actions necessary to determine whether any applicant, recipient, or other individual has an ownership interest in an account maintained at the financial institution providing information under subd. 1. Upon the request of the department, the financial institution shall provide to the department, for each applicant, recipient, or other individual who matches information provided by the financial institution under subd. 1., the address of record, the account number and account type, and the balance of the account.

(e) *Use of information by financial institution; penalty.* A financial institution participating in the financial record matching program under this subsection, and the employees, agents, officers, and directors of the financial institution, may use information received from the department under par. (c) only for the purpose of matching records and may use information provided by the department in requesting additional information under par. (d) only for the purpose of providing the additional information. Neither the financial institution nor any employee, agent, officer, or director of the financial institution may disclose or retain information received from the department concerning applicants, recipients, or other individuals

who do not have an interest in an account maintained at the financial institution.

Any person who violates this paragraph may be fined not less than \$25 nor more than

\$500 or imprisoned in the county jail for not less than 10 days or more than one year

or both.

\$1,000

\$50

plain  
text

1           (f) *Use of information by department.* The department may use information  
2 provided by a financial institution under this subsection only for matching records  
3 under par. (d), for administering the financial record matching program under this  
4 subsection, and for determining eligibility or continued eligibility under this  
5 subchapter. The department may not disclose or retain information received from  
6 a financial institution under this subsection concerning account holders who are not  
7 applicants, recipients, or other individuals.

8           (g) *Financial institution liability.* A financial institution is not liable to any  
9 person for disclosing information to the department under this subsection or for any  
10 other action that the financial institution takes in good faith to comply with this  
11 subsection.

12           **SECTION 2.** 224.42 of the statutes is created to read:

13           **224.42 Disclosure of financial records for Medical Assistance**  
14 **eligibility.** (1) **DEFINITIONS.** In this section:

15           (a) "Financial institution" has the meaning given in 12 USC 3401 (1).

16           (b) "Financial record" has the meaning given in 12 USC 3401 (2).

17           **(2) FINANCIAL RECORD MATCHING AGREEMENTS.** A financial institution is required  
18 to enter into an agreement with the department of health services under s. 49.45  
19 (4m).

20           **(3) LIMITED LIABILITY.** A financial institution is not liable for any of the  
21 following:

22           (a) Disclosing a financial record of an individual or other information to the  
23 department of health services in accordance with an agreement, and its participation  
24 in the program, under s. 49.45 (4m).



1 (b) Any other action taken in good faith to comply with s. 49.45 (4m).

2 (END)

**Godwin, Gigi**

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**From:** Rude, Nels  
**Sent:** Monday, January 30, 2012 10:25 AM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB 11-3665/1 Topic: Medical Assistance financial records matching program

Please Jacket LRB 11-3665/1 for the ASSEMBLY.

# Memo

To: Representative **Nygren**

(The Draft's Requester)

**Per your request ... the attached fiscal estimate was prepared for your un-introduced 2011 session draft.**

**LRB Number: LRB-3665**

**Version: “/1”**

**Fiscal Estimate Prepared By: (agency abbr.) DFI**

**If you have questions about the enclosed fiscal estimate, you may contact the state agency representative that prepared the fiscal estimate. If you disagree with the enclosed fiscal estimate, please contact the LRB drafter of your proposal to discuss your options under the fiscal estimate procedure.**

**Entered In Computer And Copy Sent To Requester Via E-Mail: 02 / 08 / 2012**

**\* \* \* \* \***

**To: LRB – Legal Section PA's**

**Subject:** *Fiscal Estimate Received For An Un-introduced Draft*

**> If re-drafted ...** please insert this cover sheet and attached early fiscal estimate into the drafting file “guts” ... after the draft's old version (the version that this fiscal estimate was based on), and just before re-draft of the updated version.

**> If introduced ...** please make sure the attached fiscal estimate is for the **current version** ... write the draft's new introduction number below and give this packet to Mike (or Lori) to re-process the fiscal estimate (w/intro. number included).

**THIS DRAFT WAS INTRODUCED AS: 2011** AB 553

**Barman, Mike**

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**From:** LRB.Legal  
**Sent:** Wednesday, February 08, 2012 8:26 AM  
**To:** Rep.Nygren  
**Cc:** Rude, Nels  
**Subject:** LRB-3665/1 (un-introduced) (FE by DFI - attached - for your review)

**Attachments:** FE-3665\_DFI.PDF



FE-3665\_DFI.PDF  
(44 KB)

**Subject: Public Assistance - Medical**

**Mike Barman (Lead Program Assistant)**  
State of Wisconsin - Legislative Reference Bureau  
Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.wisconsin.gov](mailto:mike.barman@legis.wisconsin.gov)